

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

JOHN A. HORVATH,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:09CV1129-AJT/TCB
)	
BANK OF NEW YORK, N.A., et al.,)	
)	
Defendants.)	

**BANK OF NEW YORK, N.A., CWALT, INC., COUNTRYWIDE HOME LOANS
SERVICING, LP, AMERICA’S WHOLESALE LENDER, AND MORTGAGE
ELECTRONIC REGISTRATION SYSTEM, INC.’S
MOTION TO DISMISS AMENDED COMPLAINT WITH PREJUDICE**

Defendants Bank of New York, N.A., CWALT, Inc., Countrywide Home Loans Servicing LP, America’s Wholesale Lender, and Mortgage Electronic Registration System, Inc. (collectively, the “Defendants”), by counsel, submit this Motion to Dismiss Amended Complaint pursuant to Fed. R. Civ. P. 12(b)(6), and respectfully request that this Court dismiss Counts I, II, IV, V, VI and VII with prejudice. Plaintiff’s Amended Complaint consists entirely of unsupported conclusory allegations and a few limited oblique facts which fail to state a claim upon which relief may be granted. As set forth in the supporting memorandum filed concurrently with this Motion, Plaintiff’s conclusory allegations are fundamentally flawed, wholly unsupported, and legally deficient, and the Amended Complaint must, therefore, be dismissed with prejudice.

Dated: December 18, 2009

Respectfully submitted,

/s/ Patricia M. Sulzbach

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Electronic Registration System, Inc.*

CERTIFICATE OF SERVICE

I do hereby certify that on this 18th day of December, 2009, I caused a copy of the foregoing MOTION TO DISMISS AMENDED COMPLAINT to be served by electronic transmission with the Clerk of the Court using the CM/ECF system, which will then send a notification of such filing (NEF) on the following:

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